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RESPONSE TO
THE FOURTH NOTICE OF PROPOSED RULEMAKING
DOCUMENT No. FCC 96-311
FCC DOCKET No. 92-297
PROPOSAL TO DESIGNATE THE 31.0-31.3 GHz BAND FOR LMDS

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CC Docket no. 92-297

The City of Topeka submits the following comments in accordance with the Fourth Notice of Proposed Rulemaking, Section IV-A, "Proposal to designate the 31.0-31.3 GHz band for LMDS", of the first Report and Order and Fourth Notice of Proposed Rulemaking of July 17, 1996 which was released for comment on July 22, 1996.

I. INTRODUCTION

1. The City of Topeka wishes to open comments with a brief description of our background as it relates to 31 GHz microwave radio spectrum use. The City of Topeka is the capital of the state of Kansas with a population of approximately 121,000 citizens. The City of Topeka (Call Sign WNTW208 and Licensee Identification Number 009891-701) currently owns and operates 42 - 31.0-31.3 GHz millimeter short haul point-to-point radios. This communication system is used for the purpose of monitoring and controlling traffic light facilities as mentioned in paragraph 99 on page 41 in the 4th NRPM. This communication system is vital to the effective management and use of traffic light facilities in our Central Business District to ensure optimal congestion management for the purpose of reducing vehicle delays and vehicle emissions. The City of Topeka has a current investment of \$165,000 in this system that was funded through local tax dollars. It is the desire of the City of Topeka that the operation of this system be allowed to continue, within FCC rules and regulations, without substantial additional costs. The City of Topeka feels that any substantial additional costs associated with modification of it's existing 31 GHz system or the purchase of a replacement system will provide a hardship in terms of allocating new funds through local tax dollars.

II. COMMENTS

2. Comment on the question contained in Section IV paragraph 100 "We request that parties address our proposal to make the LMDS service a primary protected use in the 31.0-31.3 GHz band".

The City of Topeka is opposed to making the LMDS service a primary protected use in 31.0 - 31.3 GHz band. The City of Topeka has accepted the non-protected status of the 31.0 - 31.3 GHz band because it is our contention that interference from other devices operating in this band and interference potential to other devices operating in this band from our radios is a remote possibility due to the operating characteristics, as specified by the FCC (antenna requirements with a minimum gain of 38.5 dB) of our 31 GHz radios. These characteristics produce a resultant 3 dB, 2.4 degree beamwidth which in our opinion provides inherent interference protection. The City of Topeka feels that it is possible for our existing 31 GHz system and any potential LMDS system to operate in the CBD area without creating interference problems that can't be resolved. The individual radios we operate can be relocated, if necessary, to eliminate operating incompatibilities. The City of Topeka feels that if LMDS is provided primary protected status that it would give LMDS entities an unfair advantage in controlling use of our existing 31 GHz system.

If the proposal to make LMDS service a primary protected use is implemented, the City of Topeka requests the FCC

make provisions to "grandfather" public safety entities to provide frequency protection or complete compensation without recurring costs for existing 31 GHz point-to-point communication links that are used for public services. This request is made to protect existing public safety entity operations and communication system investments in the 31 GHz band from the FCC's commercialization and competitive market approach to determining which new services will succeed in the 28 GHz and 31 GHz bands. The City of Topeka does not have interests in competing with private enterprise in this area and feels that it should not have it's public services compromised by the commercialization of the 31 GHz frequency band.

3. Comment on the question contained in Section IV paragraph 102 "We request what effect these requirements will have on 31 GHz systems moving to the 23 GHz band".

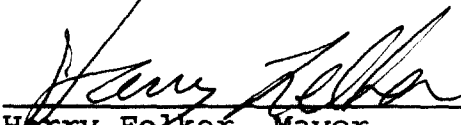
It is the desire of the City of Topeka that the operation of it's 31 GHz system be allowed to continue, within FCC rules and regulations, without substantial additional costs, to continue to provide optimal traffic related services in terms of safe operation and minimal vehicle emissions to it's citizens and driving public. The City of Topeka desires to protect it's investment by remaining in the 31 GHz band and not incurring any additional costs related to converting existing 31 GHz radios to 23 GHz (if this is possible) or purchasing a complete new system. The City of Topeka feels that moving to the 23 GHz band would cause a financial hardship in allocating funds through local tax dollars. The City of Topeka would request the FCC incorporate

rules and regulations that would force potential LMDS entities to provide funds to completely compensate public safety entities for existing 31 GHz communication systems or a new system in the event the public safety entities are forced to move to the 23 GHz band.

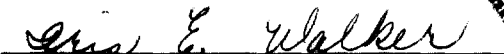
4. Comment on the question in Section IV paragraph 103 "we believe it is also appropriate to seek comment on whether we should accept any new applications, modifications, or renewal applications in the 31 GHz. band.)

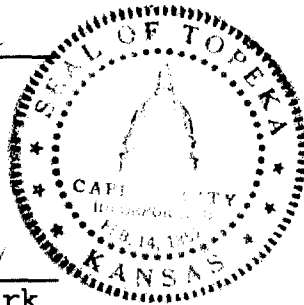
It is the desire of the City of Topeka to continue to operate it's existing 31 GHz communication system which will require renewal in 1999. If the proposal to make LMDS service a primary protected use is implemented, renewals and modifications should be incorporated in the "grandfather clause" proposal requested in paragraph 2 of this document. The purpose of this request would be to provide either protection or complete system compensation for public safety entities that are providing public services though the use of the 31 GHz band from commercialization and private enterprise.

CITY OF TOPEKA, KANSAS


Harry Felker, Mayor

ATTEST:


Iris E. Walker, City Clerk



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